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APR 29 2014

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

PER

DEPUTY CLERK

CORY STUCKEY,

Petitioner,

v.

J.E. THOMAS,

Respondent.

CIVIL NO. 3:13-CV-01256

(Judge Kosik)

ORDER

AND NOW, this 29th day of APRIL, 2014, IT APPEARING TO THE COURT
THAT:

(1) Petitioner, Cory Stuckey, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on May 8, 2013 (Doc. 1);

(2) In his petition, Petitioner challenges the Bureau of Prisons ("BOP") calculation of his sentence and argues that he was not credited for the time he was in custody from October 7, 2010 until November 16, 2011;

(3) The action was assigned to Magistrate Judge Susan E. Schwab for Report and Recommendation;

(4) On March 28, 2014, the Magistrate Judge issued a Report and Recommendation (Doc. 16) wherein she recommended that the petition for writ of habeas corpus be denied;

(5) Specifically, the Magistrate Judge found that the BOP properly concluded that Petitioner was not entitled to a sentence credit for the period of time in question because that time in custody was credited toward his state sentence;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the petitioner is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report, and we concur with her recommendation. After reviewing the record, we agree with the Magistrate Judge that the BOP accurately calculated Petitioner's sentence. Petitioner received a credit on his parole-violation state sentence for the period of time in question; therefore, granting credit towards Petitioner's federal sentence would result in double credit. We agree with the Magistrate Judge that the petition should be denied.


ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Susan E. Schwab dated March 28, 2014 (Doc. 16) is **ADOPTED**;

(2) Petitioner's petition for writ of habeas corpus is **DENIED**;

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Order to the Magistrate Judge; and

(4) Based on the Court's conclusions herein, there is no basis for the issuance of a certificate of appealability.



Edwin M. Kosik
United States District Judge